

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN RE:)
TINA TURNER)
) DOCKET NO.
) 12-0086
PEOPLES GAS LIGHT AND)
COKE COMPANY)
)
Complaint as to service in)
Chicago, Illinois.)

Thursday, November 29, 2012

Met, pursuant to notice, at 11:00 a.m.

Before:

Administrative Law Judge Benn

APPEARANCES:

MR. JAMES GARNER

(Appeared on behalf of Tina Turner.)

SHEFSKY & FROELICH

BY: SUSAN POLL-KLAESSY, ESQ.

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(Appeared on behalf of
Peoples Gas Light and
Coke Company.)

L.A. COURT REPORTES, LLC by
Tonja R. Jennings Bowman, Reporter
CSR #084-002995

1 JUDGE BENN: Pursuant to
2 the direction of the Illinois Commerce Commission,
3 and I'll call Docket Number 12-0086. This is Tina
4 Turner versus Peoples Gas, Light and Coke Company,
5 a complaint as to the service in Chicago,
6 Illinois.

7 Can I have the Complainant --
8 Complainant's representative introduce himself for
9 the record?

10 MR. GARNER: Oh. James Garner.

11 JUDGE BENN: And your relation to Tina
12 Turner is?

13 MR. GARNER: It's my wife.

14 JUDGE BENN: As you sit
15 here today, you actually are the one that's most
16 familiar with the complaint and the account
17 related to the complaint?

18 MR. GARNER: Absolutely.

19 JUDGE BENN: Okay. And counsel
20 for Peoples Gas, Light and Coke Company?

21 MS. POLL-KLAESSY: Susan Poll-Klaessy,
22 P-O-L-L dash K-L-A-E-S-S-Y, on behalf of the

1 Respondent.

2 JUDGE BENN: Okay. The parties did have
3 a conference in an effort to try and settle this
4 matter and negotiate settlement. It's my
5 understanding both sides of the parties have reached
6 an impasse and wish to proceed towards evidentiary
7 hearing. I am giving the Complainant, Tina Turner,
8 and by extension of James Garner, an additional and
9 final 21 days until December 20th, 2012 to file a
10 reply to the Verified Answer that was filed by the
11 Respondent in this matter.

12 In addition, since this complaint
13 will not be resolved prior to the one year in
14 statutory requirement for filing of this
15 complaint, I am asking the parties to file a joint
16 waiver of the one-year statutory requirement prior
17 to the evidentiary hearing, with our clerk's
18 office.

19 Finally, this matter has been set
20 by agreement of the parties for evidentiary
21 hearing --

22 MR. GARNER: I would like to be heard.

1 JUDGE BENN: You will be heard in one
2 second.

3 (Continuing) -- will be set for
4 evidentiary hearing on February 21st, 2013 at
5 11:00 a.m.

6 Is there anything for the record
7 from the Complainant?

8 MR. GARNER: Yes. For the record, I
9 spoke to Ms. Poll-Klaessy, counsel for Peoples
10 Gas, in the conference. And it was my
11 understanding that she did not want to address the
12 issue of the vexatious delay of -- in the refusal
13 to provide us with gas service in 2011. And she
14 only wanted discuss future issues which are
15 irrelevant to these proceedings. And then she has
16 represented that I denied an inspection to the
17 meters. And I didn't respond to her, but I did
18 not deny it.

19 What I said was, for the record,
20 that Peoples Gas set up an inspection; and I
21 cooperated with the inspection; and they got a
22 reading at that time; and the only issue was that

1 the inspector wanted to go throughout a four-unit
2 property. And this was not agreed to by the gas
3 company when I spoke to Cassandra and the other
4 representatives. They told me that they just
5 wanted a meter inspection, and that at that point
6 they would restore the gas service reconnected to
7 the building, they would get a permit. And this
8 did not happen.

9 So I feel that I was lied to. And
10 I am in no position to go forward without
11 addressing what occurred in 2011 where my family
12 was wrongfully denied gas, and we were told to
13 freeze. And that's what their intentions were,
14 and that's what they did. And so, I am here to
15 address the issues in my complaint. I made that
16 clear to Ms. Poll-Klaessy in our conference that
17 we had that's not in the presence of the judge.

18 JUDGE BENN: Okay.

19 MR. GARNER: I'd also like to --

20 JUDGE BENN: Oh. Go ahead. And
21 I'll let Ms. Poll-Klaessy respond;
22 then I'll make a statement. Go ahead, sir.

1 MR. GARNER: I'd also like to say that
2 it has come to my attention that there may be a
3 conflict of interest between the firm of Shefsky
4 and Froelich in this matter in that I have had
5 recent dealings with another attorney from that
6 firm, Ms. Karen Goodman.

7 Is she an attorney in your firm?

8 MS. POLL-KLAESSY: She is an attorney in
9 my firm.

10 MR. GARNER: I'd like to say, for the
11 record, that there may be a conflict of interest.
12 And I don't know how that would be addressed. I
13 guess I have to contact the lawyer to find out how
14 that can be addressed. But that's all I have to
15 say for the record at this point.

16 JUDGE BENN: Okay. Thank you.

17 Ms. Poll-Klaessy, do you have any
18 response on the record?

19 MS. POLL-KLAESSY: Yes. Yes, your
20 Honor. Just that the Company's position is set
21 forth in its Answer to Affirmative Defenses that
22 was filed in this matter, addressed the

1 Complainant's allegations in his complaint, and
2 Ms. Turner's complaint. We discussed those today;
3 and they've been addressed in the Answer to
4 Affirmative Defenses as well.

5 This is the first time I'm hearing
6 of the issue of with Ms. Goodman. Mr. Garner and
7 Ms. Turner did not bring that up during our
8 discussion earlier.

9 I don't know what the relationship
10 is between Mr. Garner and Attorney Goodman. So
11 this is the first time hearing of that.

12 JUDGE BENN: Okay. Mr. Garner, since
13 you've raised the issue on the record, what is
14 your relationship with the other attorney at the
15 firm? Are they representing you, that you care
16 to share?

17 MR. GARNER: In -- Well, as I said
18 earlier, I'm not sure of what the conflict of
19 interest legally would be. Since I'm not an
20 attorney, I'm at a disadvantage. But I would like
21 an opportunity --

22 Before I say further on the record,
24

1 I'd like an opportunity to consult with an
2 attorney to find out what role that -- what type
3 of conflict interest that I'm dealing with by
4 having a relationship with Ms. Karen Goodman, and
5 now a relationship with Ms. Poll-Klaessy. And I
6 don't know if there's a conflict or not. But I
7 think I need to -- before I say anything else on
8 the record, I need to have time to consult with an
9 attorney to find out if there is a conflict of
10 interest that I must perhaps raise in my reply
11 that's due on December the 20th, or in some other
12 way, some other legal way. I don't know, because
13 I'm not an attorney.

14 JUDGE BENN: Okay. For
15 the record, in response to your last statement,
16 you have leave to pursue the remaining litigation
17 in this complaint with an attorney, any attorney
18 you'd like.

19 The filing of the reply, and the
20 timeline for filing the reply to the Verified
21 Answer remains the same.

22 You may consider your potential

1 conflict of interest with your attorney and
2 include whatever is appropriate in your reply at
3 the time.

4 Given that you've raised that on
5 the record, both sides will have an opportunity to
6 investigate whether there is indeed a conflict of
7 interest as you might have raised, and proceed
8 accordingly, given what is found out. So not only
9 do you have an opportunity to find out, but Ms.
10 Poll-Klaessy has an opportunity to find out as
11 well. And the parties can do with that what they
12 wish, when they are proceeding towards this --

13 MR. GARNER: I have another question.

14 JUDGE BENN: One second.

15 (Continuing) -- when they proceed
16 toward the finalization of this complaint.

17 In addition, all the matters that
18 have been stated on the record at this point are
19 not sworn testimony and are not given any weight
20 when we appear at the evidentiary hearing. So I
21 just want you to understand you both made certain
22 statements that carry no weight in my decision or

1 recommendation of admission after or before we
2 have the evidentiary hearing take place on
3 February 21st, 2013 at 11:00 A.M.

4 Is there anything else?

5 MR. GARNER: Yes. Would I have an
6 opportunity for discovery to make perhaps a
7 request or a motion for discovery from the gas
8 company?

9 JUDGE BENN: I can't advise you on what
10 motions you can file against the Company or the
11 Company can file against you in the interim.

12 The parties are subject to any type
13 of preparation for litigation; and that includes
14 discovery. And that's between the parties outside
15 the evidentiary hearings that's scheduled.

16 MR. GARNER: So would I file that with
17 the Commission?

18 JUDGE BENN: I can't advise you, sir.

19 MR. GARNER: Okay.

20 JUDGE BENN: You are operating as your
21 own attorney, or you'll have to seek counsel.

22 MR. GARNER: All right.

1 JUDGE BENN: Is there
2 anything from you besides that that we need to
3 discuss for the record, from Ms. Poll-Klaessy?

4 MS. POLL-KLAESSY: Nothing.

5 JUDGE BENN: Anything else?

6 MR. GARNER: No, that will do it.

7 JUDGE BENN: Thank you.

8 So then this matter will stand continued for
9 evidentiary hearing to February 21st, 2013 at
10 11:00 a.m. And you will each receive an ALJ
11 ruling and Notice of Continuance on the matter
12 that enumerates what we've ruled on today on the
13 record.

14 MR. GARNER: As far as that waiver is
15 concerned, that's another question that I had.
16 I'm sorry. That wavier --

17 JUDGE BENN: Waiver?

18 MR. GARNER: Yeah, that wavier for the
19 12 months, what does that mean?

20 JUDGE BENN: You filed your Complaint
21 on February 11th, 2012. There is a statutory
22 limitation to have the Commission address complaints

1 which is 12 months from the date of filing.
2 This matter has been set for several prehearing
3 conferences and continued a number of times by
4 agreement of the parties. And, as such, it was
5 continued to today, November 29th, you have --
6 are approaching the statutory deadline to have
7 this case resolve completely before the
8 Commission. That is not going to take place now,
9 due to the timeline that has been set with this
10 docket, and all the continuances.

11 So in order for us to proceed,
12 because your hearing will be after the statutory
13 deadline, I am asking the parties to have a joint
14 waiver of the statutory deadline of the one-year
15 requirement.

16 MR. GARNER: I guess my question is, if
17 this goes beyond that statutory deadline, what
18 occurs?

19 JUDGE BENN: The case can proceed without
20 it. But because you all are both knowingly
21 proceeding past the statutory deadline, is why I
22 am asking for it to be put on the record that

1 this is by agreement of the parties. Because
2 all these continuances, and things that have taken
3 place with your complaint have all been by
4 agreement of the parties. And now we are at
5 November 29, 2012.

6 It's not possible to hold the
7 hearing prior to the statutory deadline and have
8 your case resolved by the Commission, as it stands
9 today. So it will not be resolved by the one-year
10 requirement, which is why I am asking the parties
11 to jointly file a statutory waiver of the one-year
12 requirement to resolve your complaint.

13 MR. GARNER: I guess my question is,
14 well --

15 JUDGE BENN: And what will happen if
you don't?

16 MR. GARNER: Yes.

17 JUDGE BENN: We'll still
18 proceed with the matter, because the parties have
19 agreed to have an evidentiary hearing on
20 February 21, 2013 at 11:00 a.m.

21 MR. GARNER: Okay.

22 JUDGE BENN: So nothing will happen if

1 you do not or do. But because I want to be on
2 the record with the fact that it is proceeding
3 past the deadline, that's why I am requiring or
4 asking the parties to file the joint
5 waiver of the requirement.

6 MR. GARNER: Okay. But you say that's
7 not mandatory?

8 JUDGE BENN: It's not.

9 And impliedly you are agreeing, because we've set
10 this matter past the statutory deadline, you are
11 agreeing to set it past the statutory deadline.

12 MR. GARNER: Well, Ms. Poll-Klaessy
13 brought that up. You know, I'm just -- Like I
14 said, I'm not an attorney, I don't know what's
15 going on. I am just --

16 JUDGE BENN: Okay. Well,
17 let me ask you this, since we are on the record.

18 Mr. Garner, are you in agreement
19 that you are at an impasse with this case, based
20 on negotiations you have had with the attorney;
21 that you have no other way to resolve your
22 complaint other than to hold an evidentiary

1 hearing; is that what you agree to?

2 MR. GARNER: Well, you know, if
3 that's -- If that's the only way that you say that
4 this can proceed, you know, yeah. I mean,
5 because, like I said, I don't know until I talk to
6 an attorney.

7 I am going to try and meet with an
8 attorney as soon as I can and try and find out
9 what my rights are at this point in this
10 proceeding. Because I've never been involved in a
11 utility litigation like this before.

12 JUDGE BENN: Okay.

13 MR. GARNER: So I think I need to --

14 JUDGE BENN: You've not lost any rights
15 in your complaint, as it stands right now. The
16 only thing that is in play right now is that this
17 matter has been set past the one-year statutory deadline.

18 Whether there is a waiver filed or
19 not as I've asked, the matter will still proceed
20 to evidentiary hearing. And you'll be given all
21 the opportunity to have your issues heard.

22 MR. GARNER: Okay.

1 ADMINISTRATIVE LAW JUDGE: It's my
2 understanding, from the path this complaint has
3 taken, that the parties have had several
4 opportunities to negotiate with counsel for
5 Peoples Gas, whether it was the prior counsel or
6 Ms. Poll-Klaessy; and that you are unable to
7 resolve your complaint right now; and that what
8 each side wishes is the matter to be heard in an
9 evidentiary hearing.

10 Am I correct in saying that,
11 Mr. Garner?

12 MR. GARNER: Oh, absolutely.

13 JUDGE BENN: And am I
14 correct in saying that, Ms. Poll-Klaessy?

15 MS. POLL-KLAESSY: Yes, your Honor.

16 JUDGE BENN: The matter is moving
17 forward to evidentiary hearing, and you
18 will retain your rights to produce your evidence
19 and your witnesses at the evidentiary hearing on
20 February 21st, 2013 at 11:00 a.m.

21 Since we are on the record of
22 numerous times repeating that we're going past the

1 statutory deadline, I am still asking that you
2 file the joint waiver; however, it's not required.

3 Okay. So the matter will stand
4 continued to evidentiary hearing by agreement of
5 the parties February 21st, 2013 at 11:00 a.m.

6 Thank you.

7 MR. GARNER: Thank you, Judge.

8 MS. POLL-KLAESSY: Thank you.

9 WHICH WERE ALL THE PROCEEDINGS
10 HELD ON THE ABOVE-MENTIONED DATE
11 IN THE ABOVE-ENTITLED MATTER.

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